THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 2392 of 1996

Dated : 02-08-2005.

Between:

P.Chinna Subbiah, S/O Pedda Subbiah
R/O Peddalebaka Village, Papagni Nagar Colony
Vallur Mandal, Cuddapah District

..... PETITIONER

AND

1 The Divisional Forest Officer
Proddatur Division Cuddapah District.
2 The Forest Range Officer
Proddatur Range Proddatur,
Cuddapah District.
3 The Mandal Revenue Oficer
Vallur Mandal Cuddapah District

.....RESPONDENTS

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.2392 of 1996

O R D E R:

Alleging that though he was permitted by the Mandal Revenue Officer(3rd respondent) to cultivate Ac.1.25 cents in Survey No.807 (Part-A), at Lebaka village several years back respondents 1 and 2 (Divisional Forest Officer and Forest Range Officer, Proddatur Range, Proddatur, Cuddapah District) are trying to evict him by force, petitioner filed this petition seeking a direction to respondents 1 and 2 not to interfere with his possession.

2. The contention of respondents is that the land said to be in possession of the petitioner, is a part of reserve forest area and since no land in reserve forest area can be granted for any purpose, without the permission of the Union Government, petitioner is not entitled to any relief.

3. The contention of the learned counsel for the petitioner is that since 3rd respondent granted permission to the petitioner to cultivate the land and since petitioner has been in continuous possession and enjoyment of the said land from 1986 onwards respondents 1 and 2 trying to evict the petitioner without following due process of law is objectionable.

4. The contention of the learned Government Pleader for respondents 1 and 2 is that petitioner is never in possession of the property and in any event since the land in question is in a reserved forest area, petitioner is not entitled to any relief, since no prior permission of the Central Government, admittedly was obtained.

5. Though an order of interim stay of dispossession of the petitioner was granted, on a petition for vacation of stay, filed by respondents 1 and 2 a learned judge ordered that the stay granted earlier would be operational only if the petitioner is in possession of the property on the date of the order of stay and if he were not in possession of the property, stay ceases to operate.

6. The fact that the land in question is within the reserve forest area is not denied on disputed. So in view of Section 2 of the Forest Conservation Act in respect of land in reserve forest area, no activity other than forest activity can be permitted, without the prior permission of the Union Government. Therefore, even assuming that 3rd respondent granted permission to the petitioner to cultivate the land, since the said land is in reserve forest area petitioner cannot cultivate the same, without prior permission of the Union Government and so petitioner is not entitled the relief sought in this petition.

7. Hence, the writ petition is dismissed. No costs.

2nd August, 2005.

mrb